

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KEVIN MILES,
Plaintiff,

vs.

JENNIFER MCELFRISH,
Defendants.

Case No. 1:18-cv-330

Dlott, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

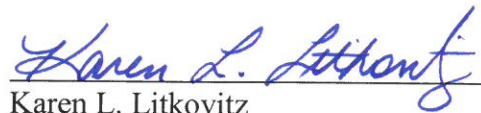
On May 14, 2018, plaintiff filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). On May 25, 2018, the undersigned issued a Deficiency Order, ordering plaintiff to pay the full filing fee or submit an *in forma pauperis* application. (Doc. 2). Plaintiff has now filed a motion to dismiss this action without prejudice in response to the Deficiency Order. (Doc. 3). Therein, plaintiff indicates that he mistakenly “filed in haste an incorrect vehicle for relief.” (*Id.* at PageID 15).

Fed. R. Civ. P. 41(a)(2) provides that the Court may dismiss an action “at the plaintiff’s instance” upon “such terms and conditions as the court deems proper.”

Pursuant to Fed. R. Civ. P. 41(a)(2), it is **RECOMMENDED** that this action be dismissed without prejudice

Date: _____

6/6/18



Karen L. Litkovitz
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KEVIN MILES,
Plaintiff,

vs.

JENNIFER MCELFRISH,
Defendants.

Case No. 1:18-cv-330

Dlott, J.
Litkovitz, M.J.

NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).